

R E M A R K S

Applicants respectfully request further examination and reconsideration in view of the above amendments and the arguments set forth fully below. Claims 1-48 were previously pending in this application. Within the Office Action Claims 1-11, 13-43 and 48 have been rejected and Claims 12 and 44-47 have been objected to. By the above amendment, Claims 1-3, 5, 8, 9, 12, 13, 15, 17, 18, 20 and 44-48 have been amended. Claims 1-48 are therefore now pending in this application.

Within the Response to Arguments section of the Office Action it is stated that “[g]enerally, the applicant’s arguments contain many general and conclusionary statements about what the applied prior art ‘does not teach’ that fail to specifically rebut the examiner’s *prima facie* case and that fail to provide the examiner notice on where and how the applicant considers the applied prior art to have failed.” The applicant respectfully disagrees. The above quoted statement is contradictory on its face. Within the current and previous Office Actions, rejections have been put forth and maintained which are based on an opinion of the teachings of the cited references, not on the clear teachings of the cited references. Within the responses to these Office Actions, the applicant has soundly refuted these rejections and provided examples and citations demonstrating how the cited references do not include the teachings for which they are being put forth. These arguments do specifically rebut the rejections and provide clear notice on where the prior art fails to teach that for which it is being cited. The applicant however is now forced to respond to baseless assertions and arguments, without citation, as to an opinion of the teachings of the cited references, which is clearly contradictory to the actual teachings of the cited references. As an example, an argument that “Bobo never forecloses on the possibility” of a claimed element appears to be the basis for a rejection. As will be discussed in detail below, this is not the standard that is to be employed in supporting a rejection. There must be actual teachings within a reference directed to the claimed element to support a rejection. It is not enough that a reference “never forecloses on the possibility” of a claimed element.

Rejections Under 35 U.S.C. § 102

Within the Office Action, Claims 17-19 have been rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,675,507 to Charles R. Bobo, II (hereinafter "Bobo"). The applicant respectfully disagrees with this rejection. As recognized within the Office Action, Bobo fails to teach that the independently accessible address is unique to the recorded audio file. By the above amendment, this limitation has been added to the independent Claim 17. Accordingly, Claims 17-19 are not anticipated by Bobo and this rejection should be withdrawn.

Within the Office Action, Claims 17 and 20 have been rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent No. 5,915,001 to Premkumar Uppaluru (hereinafter "Uppaluru"). The applicant respectfully disagrees with this rejection. As recognized within the Office Action, Uppaluru fails to teach that the independently accessible address is unique to the recorded audio file. By the above amendment, this limitation has been added to the independent Claim 17. Accordingly, Claims 17 and 20 are not anticipated by Uppaluru and this rejection should be withdrawn.

Rejections Under 35 U.S.C. § 103

Within the Office Action, Claims 1-7, 9-11, 13-16, 22-43 and 48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bobo in view of Internet Unleashed 1997 (hereinafter "Internet Unleashed") The applicant respectfully disagrees with this rejection. As recognized within the Office Action, Bobo fails to specifically disclose that the recorded audio file is separately and directly accessible using the independently accessible address. Internet Unleashed appears to be cited for this proposition.

Bobo teaches a message storage and delivery system which receives facsimile messages, voice messages and data messages. (Bobo, Abstract). Bobo teaches that the system is connected to the Internet and notifies users with an e-mail message each time a message is received. (Bobo, Abstract). After receiving this notification, the users can then connect to the system through the Internet and have the messages downloaded to their computers or preview the messages. (Bobo,


Abstract). Bobo teaches that to obtain a message such as a facsimile message, the user logs into his or her mailbox in the system and selects an anchor from a facsimile list provided by the system. (Bobo, col. 8, lines 11-17). In response to this selection, the system then displays a file containing the list of facsimiles. (Bobo, col. 8, lines 15-20). When the user selects a message on the list, the system of Bobo causes the selected message to be downloaded via the Internet to the user's computer. (Bobo, col. 8, lines 60-63). **Bobo also teaches that the messages are collectively accessed through the anchor for the message list. Bobo does not teach that the messages are each stored and accessed at an independently accessible address. Further, Bobo does not teach that the messages are separately accessible using an independently accessible address. Bobo also does not teach that each message is associated with and accessed by a unique address.**

Bobo does not teach that a message is directly accessible using an independently accessible address. To access a message in the system of Bobo, a user must first log into their mailbox, select the appropriate anchor and then select the message. Within the system of Bobo, a user cannot directly access a message without going through their mailbox.

Within the Response to Arguments section of the Office Action, it is stated that "Bobo never forecloses on the possibility that there are other, unsecured ways to access messages stored on a WWW server." This statement is contrary to the Patent Laws, legal precedent and the Patent Rules. The standard to be applied when citing a reference in a rejection is what the reference teaches, not what the reference "never forecloses." Such a practice is dangerous to the patent system. Under such a practice, no patent would provide notice as to what it actually stands for and teaches. As stated in this and previous responses, Bobo does not teach that a message is directly accessible using an independently accessible address. No citation or actual proof otherwise has ever been provided in support of this rejection. Further, if proper legal standards are applied, Bobo cannot be used to support this rejection.

It is also stated within the Response to Arguments section of the Office Action that the "URL associated with the recorded audio file 'can be retrieved at the user's convenience at any

time by connecting to the Internet . . . at virtually any location in the world' (Bobo, col. 18, lines 37-44)." This is a misquotation and mischaracterization of the teachings of Bobo. At this cited portion, Bobo actually teaches



[t]he messages are stored by the MSDS 10 and can be retrieved at the user's convenience at any time by connecting to the Internet 30. The Internet World Wide Web 30 is a constantly expanding network that permits the user to retrieve the messages at virtually any location in the world. Since the user only needs to incur a local charge for connecting to the Internet 30, the user can retrieve or review messages at a relatively low cost. [Bobo, col 18, lines 37-44]

Bobo never teaches associating a URL with a recorded audio file. Further, in this quoted portion, Bobo refers only to the "messages" collectively. Bobo does not specify in this quoted portion that a single message can be accessed without accessing the MSDS 10.

In contrast to the teachings of Bobo, the present invention includes an apparatus and method for recording an audio file which allows a user to establish a telephone connection with a call processing and recording system to record an audio file. Once recorded, the user then has the ability to playback, edit and re-record the audio file until the user is satisfied with the audio file. Once the user is satisfied with the recorded audio file, a title or text description to be associated with the recorded audio file and the recorded audio file are stored at the call processing and recording system. When the quality and content of the recorded audio file is acceptable, then the recorded audio file with accompanying title and user information is transmitted from the call processing and recording system to an internet server. When the internet server receives the recorded audio file with accompanying user information and associated title or text description, this data is then stored in a recording database at the internet server. The recorded audio file of the present invention is also associated with a profile of the recording user which is accessible by the user over the internet. A notification is also preferably sent to the *recording user* notifying the recording user of the address at which the recorded audio file can be accessed. Preferably, this notification is by email. The address at which the recorded audio file can be accessed is an independently accessible address on the internet. The address at which the recorded audio file

can be accessed is unique to the recorded audio file. The recorded audio file can also be directly accessed using this address.

The recorded audio file of the present invention is separately accessible using the independently accessible address. Since the audio file is accessed through the independently accessible address, others can also access the recorded audio file on the internet server by entering the separately and directly accessible address or selecting a hyperlink pointing to this address. The recorded audio file can also be sent in a second file. Once any person accesses the recorded audio file, the audio data within the file is transmitted to the accessing computer system for playback at that accessing computer system. This allows many people to access the audio file.

As discussed above, Bobo does not teach that the messages are each stored and accessed at an independently accessible address. In addition, Bobo does not teach that the messages are separately and directly accessible using an independently accessible address. Bobo also does not teach that each message is associated with and accessed by a unique address. Further, Bobo does not teach that a message is directly accessible using an independently accessible address. Bobo also does not teach including the recorded audio file within a second file and sending the second audio file to the computer system for access by a user.

As a further example of the circular logic used to support this rejection, within the Office Action it is recognized that Bobo fails to specifically disclose that the independently accessible address is unique to the recorded audio file. However, it is then stated that

if just one audio file was associated with the URL because, for example, just one message was recorded in the user's mailbox, then the URL (independently accessible address) would be unique to the recorded audio file. [Office Action, page 15]

It is then concluded that it would have been obvious to associate just one of the audio files disclosed by Bobo with the URL disclosed by Bobo. The Applicant respectfully disagrees. To reach such a conclusion, based on the teachings of Bobo, is contrary to the Patent Laws, to legal

precedent, to the Patent Rules and to the actual teachings of Bobo. **Bobo clearly teaches that the URL is associated with the MSDS 10 mailbox, not the individual messages.** [Bobo, col. 7, lines 25-27] Accordingly, if a single message were included in the mailbox, the URL would still be associated with the mailbox, not the message. It would therefore not have been obvious to associate an independently accessible address with a single message based on the teachings of Bobo. To so conclude is contrary to the clear teachings within Bobo.

Within the Office Action it is stated that Internet Unleashed teaches that recorded audio files may be directly accessible when the user accesses the URL of a web page. The Applicant respectfully disagrees with this assertion. **Internet Unleashed does not teach that the sound file is directly accessible.** All Internet Unleashed teaches is that the <BGSOUND> command will play a sound file as soon as a page is displayed. Further, Internet Unleashed does not teach that the sound file is separately and directly accessible. Playing a sound file upon the display of a page and separately and directly accessing the sound file are very different concepts.

The combination of Bobo and Internet Unleashed is not proper. There is no hint, teaching or suggestion in either Bobo or Internet Unleashed to warrant their combination. In fact, the two cited references appear to even teach away from each other because they are incompatible. As discussed above, Bobo teaches that the messages are collectively accessed through the anchor for the message list. **Bobo does not teach that the messages are each stored and accessed at an independently accessible address.** Internet Unleashed teaches that the <BGSOUND> command will play a sound file as soon as a page is displayed. Using the system of Bobo, if the message list is selected, and there are multiple messages on the list, which sound file would be played as the page is displayed. In such a situation, would a selective message be played or would all the messages be played simultaneously. The improper combination of Bobo and Internet Unleashed leaves these questions unanswered. Accordingly, it would not have been obvious to one skilled in the art to use the <BGSOUND> command of Internet Unleashed with the system of Bobo. There is no motivation for one skilled in the art to combine these teachings of Internet Unleashed with Bobo.

This is a classic case of impermissibly using hindsight to make a rejection based on obviousness. The Court of Appeals for the Federal Circuit has stated that “it is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” In Re Fritch, 972 F.2d, 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). As discussed above, it would not have been obvious to use the <BGSOUND> command of Internet Unleashed with the message list of Bobo. To conclude that this is obvious based on the teachings of Bobo and Internet Unleashed, is to use hindsight based on the teachings of the present invention and to read much more into the teachings of these cited references than their actual teachings. Teachings of these references are being pieced together, despite the fact that there is no motivation to combine the references and they teach away from each other by providing incompatible solutions. This is simply not permissible based on the directive from the Court of Appeals for the Federal Circuit.

It is well settled that to establish a *prima facie* case of obviousness, three basic criteria must be met:

- 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) there must be a reasonable expectation of success; and
- 3) the prior art reference, or references, must teach or suggest all the claim limitations. MPEP § 2143.

The burden of establishing a *prima facie* case of obviousness based on the teachings of Bobo and Internet Unleashed has not been met within the Office Action. There is no teaching or motivation in either Bobo or Internet Unleashed to warrant their combination. As discussed above, Bobo and Internet Unleashed provide incompatible solutions. Bobo teaches that the messages are collectively accessed through the anchor for the message list. Bobo does not teach that the messages are each stored and accessed at an independently accessible address. Internet Unleashed teaches that the <BGSOUND> command will play a sound file as soon as a page is

displayed. Using the system of Bobo, if the message list is selected, and there are multiple messages on the list, which sound file or message would be played as the page is displayed. As these references teach incompatible solutions, it would not have been obvious to one skilled in the art to use the message list of Bobo with the <BGSOUND> command of Internet Unleashed.

Based on the teachings of Bobo and Internet Unleashed there is no reasonable expectation of success to warrant their combination. As discussed above, Bobo teaches that the messages are collectively accessed through the anchor for the message list. Bobo does not teach that the messages are each stored and accessed at an independently accessible address. Internet Unleashed teaches that the <BGSOUND> command will play a sound file as soon as a page is displayed. Using the system of Bobo, if the message list is selected, and there are multiple messages on the list, which sound file or message would be played as the page is displayed. One skilled in the art would not have had a reasonable expectation of success when combining the message list of Bobo with the <BGSOUND> command of Internet Unleashed.

Even if considered proper, the combination of Bobo and Internet Unleashed does not teach all of the claimed limitations. **Neither Bobo, Internet Unleashed nor their combination teach that a message is directly accessible using an independently accessible address.** Further, neither Bobo, Internet Unleashed nor their combination teach that an audio file is separately and directly accessible using the independently accessible address. As discussed above, it is recognized within the Office Action that Bobo fails to teach that the recorded audio file is separately and directly accessible using the independently accessible address. As further discussed above, all Internet Unleashed teaches is that the <BGSOUND> command will play a sound file as soon as a page is displayed. Internet Unleashed also does not teach that the sound file is separately and directly accessible. Accordingly, neither Bobo, Internet Unleashed nor their combination teach that each message is associated with and accessed by a unique, independently accessible address.

The independent Claim 1 is directed to a method of recording an audio file for playback over a computer system. The method of Claim 1 includes establishing a telephony connection

between a telephony device and a call recording device, recording an audio communication transmitted over the telephony connection thereby establishing a recorded audio file and associating an independently accessible address with the recorded audio file, such that when the address is accessed using the computer system, the recorded audio file is transmitted to the computer system for playback. The method of Claim 1 further includes the limitation that the recorded audio file is separately and directly accessible using the independently accessible address. The method of Claim 1 includes a further limitation specifying that the independently accessible address is unique to the recorded audio file. As discussed above, neither Bobo, Internet Unleashed nor their combination teaches that an independently accessible address is associated with the recorded audio file. **In addition, neither Bobo, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using the independently accessible address. Further, neither Bobo, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 1 is allowable over the teachings of Bobo, Internet Unleashed and their combination.

Claims 2-7, 9-11 and 13-16 are all dependent upon the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Bobo, Internet Unleashed and their combination. Accordingly, the Claims 2-7, 9-11 and 13-16 are all also allowable as being dependent upon an allowable base claim.

The independent Claim 22 is directed to a record and playback system for recording an audio file for later playback. The record and playback system of Claim 22 includes a means for establishing a telephony connection with a telephony device, means for recording coupled to the means for establishing a telephony connection for recording an audio communication transmitted over the telephony connection thereby establishing a recorded audio file and means for storing coupled to the means for recording for storing the recorded audio file at an independently accessible address, such that when the address is accessed by a computer system, the recorded audio file is transmitted to the computer system for playback. The record and playback system of

Claim 22 includes the further limitation that the recorded audio file is separately and directly accessible using the independently accessible address. The record and playback system of Claim 22 also includes the limitation specifying that the independently accessible address is unique to the recorded audio file. As discussed above, neither Bobo, Internet Unleashed nor their combination teaches that an independently accessible address is associated with the recorded audio file. **In addition, neither, Bobo, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using the independently accessible address. Further, neither Bobo, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 22 is allowable over the teachings of Bobo, Internet Unleashed and their combination.

Claims 23-29 are all dependent upon the independent Claim 22. As discussed above, the independent Claim 22 is allowable over the teachings of Bobo, Internet Unleashed and their combination. Accordingly, the Claims 23-29 are all also allowable as being dependent upon an allowable base claim.

The independent Claim 30 is directed to a record and playback system for recording an audio file for later playback. The system of Claim 30 includes an interface circuit configured to establish a telephony connection with a telephony device, a call recording system coupled to the interface circuit to record an audio communication transmitted over the telephony connection thereby establishing a recorded audio file and a storage system coupled to the call recording system to store the recorded audio file at an independently accessible address within the storage system, such that when the address is accessed by a computer system, the recorded audio file is transmitted to the computer system for playback. The record and playback system of Claim 30 includes the further limitation that the recorded audio file is separately and directly accessible using the independently accessible address. The record and playback system of Claim 30 further includes the limitation specifying that the independently accessible address is unique to the recorded audio file. As discussed above, neither Bobo, Internet Unleashed nor their combination

teaches that an independently accessible address is associated with the recorded audio file. **In addition, neither Bobo, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using the independently accessible address. Further, neither Bobo, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 30 is allowable over the teachings of Bobo, Internet Unleashed and their combination.

Claims 31-36 are all dependent upon the independent Claim 30. As discussed above, the independent Claim 30 is allowable over the teachings of Bobo, Internet Unleashed and their combination. Accordingly, the Claims 31-36 are all also allowable as being dependent upon an allowable base claim.

The independent Claim 37 is directed to a network of devices for recording and playback of an audio file. The network of Claim 37 includes a call processing and recording system coupled to a telephone network to establish a telephony connection with a telephony device and record an audio communication transmitted over the telephony connection thereby establishing a recorded audio file, a server coupled to the call processing and recording system to store the recorded audio file at an independently accessible address, wherein the recorded audio file is separately and directly accessible using the independently accessible address and further wherein the independently accessible address is unique to the recorded audio file and one or more computer systems coupled to the server such that when the address is accessed by one of the computer systems, the recorded audio file is transmitted to an accessing computer system for playback. As discussed above, neither Bobo, Internet Unleashed nor their combination teaches that a recorded audio file is stored at an independently accessible address. **In addition, neither Bobo, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using the independently accessible address. Further, neither Bobo, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the

independent Claim 37 is allowable over the teachings of Bobo, Internet Unleashed and their combination.

Claims 38-43 are all dependent upon the independent Claim 37. As discussed above, the independent Claim 37 is allowable over the teachings of Bobo, Internet Unleashed and their combination. Accordingly, the Claims 38-43 are all also allowable as being dependent upon an allowable base claim.

The independent Claim 48 is directed to a method of recording an audio file for playback over a computer system. The method of Claim 48 comprises establishing a telephony connection between a telephony device and a call recording device, recording an audio communication transmitted by a recording user over the telephony connection thereby establishing a recorded audio file and associating an address with the recorded audio file, such that the recorded audio file is played back to each of one or more receiving users who access the address. The method of Claim 48 includes the further limitation specifying that the address allows the recorded audio file to be separately and directly accessed. The method of Claim 48 further includes a limitation specifying that the address is unique to the recorded audio file. **As discussed above, neither Bobo, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using the independently accessible address. In addition, neither Bobo, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 48 is allowable over the teachings of Bobo, Internet Unleashed and their combination.

Within the Office Action, Claims 1, 8, 22, 30, 37 and 48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Uppaluru in view of Internet Unleashed. The applicant respectfully disagrees with this rejection. Uppaluru discloses a voice web system that is used to provide voice web services to a subscriber, whereby the voice web system is a service that provides on-line telephone based access to information. (Uppaluru, col. 9, lines 38-40). The information is presented to the user through the publication of voice web pages. (Uppaluru, col.

9, lines 41-49). Specifically, Uppaluru discloses that the system provides universally accessible caller-specific profiles that are accessed by one or more interactive voice response (IVR) systems. (Uppaluru, col. 2, lines 26-32). The system taught by Uppaluru includes voice web pages that are accessible to users via voice commands and touch-tone inputs. This collection of voice web pages is considered the “voice web” which contains a specially tagged set of key words and touch tone sequences that are associated with the embedded anchors and links used for navigation within the voice web. (Uppaluru, col. 2, lines 38-41). Thus, the system enables subscribers to access the voice web pages via their telephones, whereby the key words and touch tone sequences provided by the user are used to access links in the voice web pages and navigate through the voice web system. (Uppaluru, col. 5, lines 1-2).

Uppaluru teaches accessing information on a voice web system through a telephony connection. Uppaluru does not teach establishing a telephony connection and recording an audio communication transmitted over the telephony connection, thereby establishing a recorded audio file. Accordingly, Uppaluru does not disclose recording an audio communication transmitted over a telephony connection thereby establishing a recorded audio file for playback over a computer system nor associating an independently accessible address with the recorded audio file, wherein the recorded audio file is separately and directly accessible using the independently accessible address. Uppaluru also does not teach that the independently accessible address is unique to the recorded audio file. Further, Uppaluru does not teach sending the second file to the computer system for access by a user.

In contrast to the teachings of Uppaluru, the present invention includes an apparatus and method for recording an audio file for playback over a computer system and associating an independently accessible address with the recorded audio file, wherein the recorded audio file is separately and directly accessible using the independently accessible address. The present invention allows a user to establish a telephone connection with a call processing and recording system to record an audio file. Once the user is satisfied with the recorded audio file, the recorded audio file is stored at the call processing and recording system and transmitted to an

internet server. When the internet server receives the recorded audio file with accompanying user information and associated title or text description, this data is then stored in a recording database at the internet server. The recorded message is accessible to anyone who has access to a computer system and knows the unique address associated with the recorded audio file. Thus, anyone who has the independently accessible address to where the recorded audio file is located can listen to the recorded audio file. Once the address is accessed using the user's computer system, the recorded audio file is transmitted to that computer system for playback. Thus, a user can type in the address or access a hyper link provided in a file, such as an email file, to hear the recorded audio file played back to him or her. The recorded audio file can also be sent in a second file.

As discussed above, Uppaluru does not teach recording an audio communication transmitted over a telephony connection thereby establishing a recorded audio file for playback over a computer system. Uppaluru also does not teach associating an independently accessible address with the recorded audio file, wherein the recorded audio file is separately and directly accessible using the independently accessible address. Further, Uppaluru does not teach including the recorded audio file within a second file and sending the second file to a computer system for access by a user.

Again, within the Office Action, it is recognized that Uppaluru fails to specifically disclose that the independently accessible address is unique to the recorded audio file. However, it is then stated that

if just one audio file was associated with the URL because, for example, just one message was recorded for each voice web page, then the URL (independently accessible address) would be unique to the recorded audio file. [Office Action, page 24]

It is then concluded that it would have been obvious to associate just one of the audio files disclosed by Uppaluru with the URL disclosed by Uppaluru. The applicant respectfully disagrees. To reach such a conclusion, based on the teachings of Uppaluru, is contrary to the Patent Laws, legal precedent, to the Patent Rules and to the actual teachings of Uppaluru.

Uppaluru clearly teaches that the voice information for a voice web page is obtained from a voice file specified by its URL. [Uppaluru, col. 8, lines 11-17] Uppaluru does not teach or make obvious associating a single audio file with a URL. It would therefore not have been obvious to associate an independently accessible address with a single message based on the teachings of Uppaluru. To so conclude is contrary to the clear teachings within Uppaluru.

As recognized within the Office Action, Uppaluru fails to specifically disclose that the recorded audio file is separately and directly accessible using the independently accessible address. Again, Internet Unleashed appears to be cited for this proposition.

Within the Office Action it is stated that Internet Unleashed teaches that recorded audio files may be directly accessible when the user accesses the URL of a web page. The Applicant respectfully disagrees with this assertion. **Internet Unleashed does not teach that the sound file is directly accessible.** All Internet Unleashed teaches is that the <BGSOUND> command will play a sound file as soon as a page is displayed. Further, Internet Unleashed does not teach that the sound file is separately and directly accessible. As discussed above, playing a sound file upon the display of a page and separately and directly accessing the sound file are very different concepts.

The combination of Uppaluru and Internet Unleashed is not proper. There is no hint, teaching or suggestion in either Uppaluru or Internet Unleashed to warrant their combination. In fact, the two cited references appear to even teach away from each other. As discussed above, Uppaluru teaches a voice web system that includes voice web pages that are accessible to users via voice command and touch-tone inputs. Uppaluru does not teach associating an independently accessible address with a recorded audio file, wherein the recorded audio file is separately and directly accessible using the independently accessible address. Internet Unleashed teaches that the <BGSOUND> command will play a sound file as soon as a page is displayed. The system of Uppaluru is based on audio publication of web pages over a telephony connection. In such a system, because the web pages are audibly published, there is no necessity for the inclusion of a <BGSOUND> command to play a sound file when a page is displayed. In the system of

Uppaluru, a voice web browser is used to host voice web pages and interpret the embedded HVML markup language in the retrieved voice web pages to deliver the content of the voice web page to the user. Because the entire voice web page is audibly published there is no need to play a sound file when a page is displayed. Accordingly, it would not have been obvious to one skilled in the art to use the <BGSOUND> command of Internet Unleashed with the system of Uppaluru. There is no motivation for one skilled in the art to combine these teachings of Internet Unleashed with Uppaluru.

This is again a classic case of impermissibly using hindsight to make a rejection based on obviousness. The Court of Appeals for the Federal Circuit has stated that “it is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” In Re Fritch, 972 F.2d, 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). As discussed above, it would not have been obvious to use the <BGSOUND> command of Internet Unleashed with the voice web browser of Uppaluru. To conclude that this is obvious based on the teachings of Uppaluru and Internet Unleashed, is to use hindsight based on the teachings of the present invention and to read much more into the teachings of these cited references than their actual teachings. Teachings of these references are being pieced together, despite the fact that there is no motivation to combine the references and they teach away from each other by providing incompatible solutions. This is simply not permissible based on the directive from the Court of Appeals for the Federal Circuit.

It is well settled that to establish a *prima facie* case of obviousness, three basic criteria must be met:

- 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) there must be a reasonable expectation of success; and
- 3) the prior art reference, or references, must teach or suggest all the claim limitations. MPEP § 2143.

The burden of establishing a *prima facie* case of obviousness based on the teachings of Uppaluru and Internet Unleashed has not been met within the Office Action. There is no teaching or motivation in either Uppaluru or Internet Unleashed to warrant their combination. As discussed above, there is no motivation to include the <BGSOUND> command of Internet Unleashed with the voice web browser of Uppaluru. As discussed above, it would not have been obvious to one skilled in the art to use the <BGSOUND> command of Internet Unleashed with the voice web browser of Uppaluru.

Based on the teachings of Uppaluru and Internet Unleashed there is no reasonable expectation of success to warrant their combination. As discussed above, Uppaluru teaches a voice web browser for accessing voice web pages over a telephony connection. Internet Unleashed teaches that the <BGSOUND> command will play a sound file as soon as a page is displayed. Using the system of Uppaluru, with a voice web browser, there would be no need to utilize the <BGSOUND> command of Internet Unleashed to play a sound file. One skilled in the art would not have had a reasonable expectation of success when combining the voice web browser of Uppaluru with the <BGSOUND> command of Internet Unleashed.

Even if considered proper, the combination of Uppaluru and Internet Unleashed does not teach all of the claimed limitations. Neither Uppaluru, Internet Unleashed nor their combination teach that a recorded audio file is directly accessible using an independently accessible address. Further, neither Uppaluru, Internet Unleashed nor their combination teach that a recorded audio file is separately and directly accessible using the independently accessible address. Neither Uppaluru, Internet Unleashed nor their combination teach that each recorded audio file is associated with and accessed by a unique address.

The independent Claim 1 is directed to a method of recording an audio file for playback over a computer system. The method of Claim 1 includes establishing a telephony connection between a telephony device and a call recording device, recording an audio communication transmitted over the telephony connection thereby establishing a recorded audio file and associating an independently accessible address with the recorded audio file, such that when the

address is accessed using the computer system, the recorded audio file is transmitted to the computer system for playback. The method of Claim 1 further includes the limitation that the recorded audio file is separately and directly accessible using the independently accessible address. The method of Claim 1 includes the further limitation that the independently accessible address is unique to the recorded audio file. As discussed above, neither Uppaluru, Internet Unleashed nor their combination teaches that an audio communication is recorded over a telephony connection, thereby establishing a recorded audio file. **Further, neither Uppaluru, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using an independently accessible address that is associated with the recorded audio file. As also discussed above, neither Uppaluru, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 1 is allowable over the teachings of Uppaluru, Internet Unleashed and their combination.

Claim 8 is dependent upon the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Uppaluru, Internet Unleashed and their combination. Accordingly, the Claim 8 is also allowable as being dependent upon an allowable base claim.

The independent Claim 22 is directed to a record and playback system for recording an audio file for later playback. The record and playback system of Claim 22 includes a means for establishing a telephony connection with a telephony device, means for recording coupled to the means for establishing a telephony connection for recording an audio communication transmitted over the telephony connection thereby establishing a recorded audio file and means for storing coupled to the means for recording for storing the recorded audio file at an independently accessible address, such that when the address is accessed by a computer system, the recorded audio file is transmitted to the computer system for playback. The record and playback system of Claim 22 includes the further limitation that the recorded audio file is separately and directly accessible using the independently accessible address. The record and playback system of Claim

22 further includes the limitation specifying that the independently accessible address is unique to the recorded audio file. As discussed above, neither Uppaluru, Internet Unleashed nor their combination does not teach that an audio communication is recorded over the telephony connection, thereby establishing a recorded audio file. **Further, neither Uppaluru, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using an independently accessible address that is associated with the recorded audio file. As also discussed above, neither Uppaluru, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 22 is allowable over the teachings of Uppaluru, Internet Unleashed and their combination.

The independent Claim 30 is directed to a record and playback system for recording an audio file for later playback. The system of Claim 30 includes an interface circuit configured to establish a telephony connection with a telephony device, a call recording system coupled to the interface circuit to record an audio communication transmitted over the telephony connection thereby establishing a recorded audio file and a storage system coupled to the call recording system to store the recorded audio file at an independently accessible address within the storage system, such that when the address is accessed by a computer system, the recorded audio file is transmitted to the computer system for playback. The record and playback system of Claim 30 includes the further limitation that the recorded audio file is separately and directly accessible using the independently accessible address. The record and playback system of Claim 30 further includes the limitation specifying that the independently accessible address is unique to the recorded audio file. As discussed above, neither Uppaluru, Internet Unleashed nor their combination teaches that an audio communication is recorded over a telephony connection, thereby establishing a recorded audio file. **Further, neither Uppaluru, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using an independently accessible address that is associated with the recorded audio file. Neither Uppaluru, Internet Unleashed nor their combination teaches that the**

independently accessible address is unique to the recorded audio file. For at least these reasons, the independent Claim 30 is allowable over the teachings of Uppaluru, Internet Unleashed and their combination.

The independent Claim 37 is directed to a network of devices for recording and playback of an audio file. The network of Claim 37 includes a call processing and recording system coupled to a telephone network to establish a telephony connection with a telephony device and record an audio communication transmitted over the telephony connection thereby establishing a recorded audio file, a server coupled to the call processing and recording system to store the recorded audio file at an independently accessible address, wherein the recorded audio file is separately and directly accessible using the independently accessible address and further wherein the independently accessible address is unique to the recorded audio file and one or more computer systems coupled to the server such that when the address is accessed by one of the computer systems, the recorded audio file is transmitted to an accessing computer system for playback. As discussed above, neither Uppaluru, Internet Unleashed nor their combination teaches that an audio communication is recorded over a telephone connection, thereby establishing a recorded audio file. **Further, neither Uppaluru, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessible using an independently accessible address that is associated with the recorded audio file. Also, neither Uppaluru, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 37 is allowable over the teachings of Uppaluru, Internet Unleashed and their combination.

The independent Claim 48 is directed to a method of recording an audio file for playback over a computer system. The method of Claim 48 comprises establishing a telephony connection between a telephony device and a call recording device, recording an audio communication transmitted by a recording user over the telephony connection thereby establishing a recorded audio file and associating an address with the recorded audio file, such that the recorded audio

file is played back to each of one or more receiving users who access the address. The method of Claim 48 includes the further limitation specifying that the address allows the recorded audio file to be separately and directly accessed. The method of Claim 48 further includes a limitation specifying that the address is unique to the recorded audio file. As discussed above, neither Uppaluru, Internet Unleashed nor their combination teaches that an audio communication is recorded over a telephony connection, thereby establishing a recorded audio file. **Further, neither Uppaluru, Internet Unleashed nor their combination teaches that the recorded audio file is separately and directly accessed using an independently accessible address. Also, neither Uppaluru, Internet Unleashed nor their combination teaches that the independently accessible address is unique to the recorded audio file.** For at least these reasons, the independent Claim 48 is allowable over the teachings of Uppaluru, Internet Unleashed and their combination.

Within the Office Action it is stated that Claims 12 and 44-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By the above amendment, Claims 12 and 44-47 have been rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Accordingly, Claims 12 and 44-47 are allowable.

For these reasons, Applicants respectfully submit that all of the claims are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
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